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6 **UNITED STATES DISTRICT COURT**  
7 **WESTERN DISTRICT OF WASHINGTON**  
8 **AT SEATTLE**

9 PHUONG DUONG,

10 Plaintiff,

11 v.

12 SIX UNKNOWN AGENTS, *et al.*,

13 Defendants.  
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NO. C12-418-RSM-JPD

REPORT AND  
RECOMMENDATION

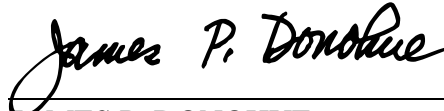
15 Plaintiff is a federal prisoner in Texas who has submitted a *pro se* 42 U.S.C. § 1983  
16 complaint without paying the filing fee or submitting an *in forma pauperis* (“IFP”) application.  
17 (Dkt. 1.) Although plaintiff was advised by the Clerk that he had until April 9, 2012, to pay  
18 the filing fee or submit a proper IFP application (Dkt. 3), the Court recommends that this  
19 matter be dismissed with prejudice immediately for frivolousness and for failure to state a  
20 claim. 28 U.S.C. § 1915A(b)(1). The Court also recommends that this dismissal count as a  
21 strike under 28 U.S.C. § 1915(g).

22 Normally where a party fails to pay a filing fee or fails to submit an IFP application, the  
23 Court would recommend dismissal without prejudice. This complaint is, however, nearly  
24 identical to a number of nearly identical complaints filed by plaintiff (and other inmates in the  
25 same Texas facility) in which no attempt was made to pay the filing fee or to apply for IFP  
26 status. For example, in C11-2159-JLR, the Honorable James L. Robart assessed a § 1915(g)

1 strike and dismissed for frivolousness and failure to state a claim a nonsensical complaint in  
2 which no efforts were made to comply with basic filing requirements. *See also* C11-1963-  
3 RSM, C11-2013-RSL, C11-2121-JLR. Moreover, even if plaintiff paid a filing fee or  
4 submitted a sufficient IFP application, this case should still be dismissed with prejudice for  
5 failure to state a claim. Plaintiff's proposed complaint is incomprehensible, fails to set forth  
6 facts sufficient to state a claim for relief, and does not appear to involve any acts committed in  
7 this federal district. (Dkt. 1.)

8 Accordingly, the Court recommends this action be dismissed with prejudice under 28  
9 U.S.C. § 1915A(b)(1) because the complaint is frivolous and fails to state a claim upon which  
10 relief may be granted. The Court further recommends that this dismissal constitute a strike for  
11 purposes of 28 U.S.C. § 1915(g). A proposed order accompanies this Report and  
12 Recommendation.

13 DATED this 15th day of March, 2012.

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15 JAMES P. DONOHUE  
16 United States Magistrate Judge  
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